

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

2022 MAY 16 P 1:07

Hernandez Laver Marshall

Plaintiff

(Write your full name. No more than one plaintiff may be named in a complaint.)

-v-

Case No.

5:21-cv-01459
(to be filled in by the Clerk's Office)Cody P Adkins

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all of the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here. Your complaint may be brought in this court only if one or more of the named defendants is located within this district.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee of \$402.00 or an Application to Proceed *In Forma Pauperis*.

Mail the original complaint and the filing fee of \$402.00 or an Application to Proceed *In Forma Pauperis* to the Clerk of the United States District Court for the Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, Alabama 35203-2195.

I. The Parties to this Complaint**A. The Plaintiff**

Provide the information below for the plaintiff named in the complaint.

Name

All other names by which you have been known:

ID Number

Current Institution

Address

Hernandez Larva Marshall
 213675
 Limestone Correctional Facility
 28779 Nick Davis Rd
 Harvest AL 35749
 City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Ledy P Atkings
 Officer
 A.D. OC
 City State Zip Code

Individual Capacity Official Capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

City State Zip Code

Individual Capacity Official Capacity

Defendant No. 3

Name _____
Job or Title (*if known*) _____
Shield Number _____
Employer _____
Address _____

City _____ State _____ Zip Code _____

Individual Capacity Official Capacity

Defendant No. 4

Name _____
Job or Title (*if known*) _____
Shield Number _____
Employer _____
Address _____

City _____ State _____ Zip Code _____

Individual Capacity Official Capacity

II.

Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal law]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- Federal officials (a *Bivens* claim)
 State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities, secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Cruel and unusual punishment, Due Process

- C. Plaintiffs suing under *Bivens* may only recover for violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?
-
-

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
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-

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial Detainee
 Civilly committed detainee
 Immigration detainee
 Convicted and sentenced state prisoner
 Convicted and sentenced federal prisoner
 Other
(explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
-
-

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

(Copy from the health care I was assaulted physically and verbally thrown on the ground and made off by Officer Lacy P Atkins)

- C. What date and approximate time did the events giving rise to your claim(s) occur?

9-3-21 approximately 12:00 am

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I followed his orders he still throw me on the ground
me he pulled my broke thumb and sand took my surgery

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries in detail.

I suffered a head injury I'm still having headaches and
my back hurts sometimes

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I pray the courts give me monetary relief for my
pain of suffering and mental distress also I want
the disciplinaries remove from my file I want the
courts to give me \$50,000 for pain and suffering
and \$25,000 for psychological distress from being placed
in Solitary confinement and not being seen by the
health care properly because they keep saying they were
short of staff, I ask the court to give me
monetary relief for the total of \$75,000 for pain
and suffering of my physical injuries and mental that
it can help my son mother and my family
for helping me through this dilemma

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

- Yes
 No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Limestone Correctional Facility

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

- Yes
 No
 Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

- Yes
 No
 Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

Solitary confinement

2. What did you claim in your grievance?

That he used excessive force and my due process was violated

3. What was the result, if any?

Nothing

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I wrote the Sgt, Lt Captain, Warden
Ass. Commissioner Commissioner no reply from
nobody nothing like it didn't happen no response

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:
-

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:
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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had any cases dismissed based on grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted?

Yes
 No

If yes, state which court dismissed your case(s), when this occurred, and attach a copy of the order(s) if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Printed Name of Plaintiff

Hernandez L Marshall

Prison Identification #

213675

Prison Address

Limestone Correctional Facility

Hewitt

City

AL

35744

State

Zip Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

5-1-22

(Date)

Signature of Plaintiff

Hernandez Marshall

Hernandez L Marshall # 28774
Limestone Correctional Facility

28774 Nick Davis Del
Hamlet, Al 35744

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA



FIRST-CLASS

United States District Court
Northern District of Alabama
Room 146, Hwy 1 Block U.S.
Court House 1724, 5th Avenue North
Birmingham, AL 35203-2455